

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case No. 3:23-cv-01092

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Alistair Newbern

DECLARATION OF KENTON DRAUGHON

I, Kenton Draughon, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Vice President of Administration and Operations for Capitol CMG, Inc. (“CCMG”). I have held this position since 2011 and have been employed by CCMG (f/k/a EMI Christian Music Group, Inc.) since 1995. In my current role, I lead CCMG’s music publishing division in all copyright administration, licensing, and royalty tracking efforts, while providing operational support for financial, contractual, and technology needs. My responsibilities include overseeing the protection of CCMG’s copyrighted works and the enforcement activities relating to CCMG’s copyrighted works. I live in Nashville, Tennessee and work from CCMG’s headquarters in Nashville, Tennessee.

2. I submit this Declaration on behalf of Plaintiff CCMG in support of Plaintiffs’ Brief in Opposition to Defendant’s Motion to Dismiss or, in the Alternative, Transfer Venue.

3. I have knowledge of the facts stated herein based on personal knowledge through my employment with CCMG and my review of the documents and websites referenced herein. If called as a witness, I could and would testify competently to the information contained herein.

CCMG'S OPERATIONS

4. CCMG is the leading music publisher in the faith-based entertainment industry, representing and advocating on behalf of iconic songwriters in the Christian and gospel communities. CCMG represents songwriters and singer-songwriters based in Tennessee, like three-time Grammy Award-winner Michael W. Smith, Grammy Award-winner Chris Tomlin, and Anne Wilson, whose debut single topped *Billboard*'s Hot Christian Songs chart in 2021. CCMG develops songwriters and artists with a Christian faith, who often make music specifically for use in church worship services and Christian music radio, or songs that span multiple musical genres, all from a Christian world view.

5. CCMG is part of Universal Music Publishing Group ("UMPG"), one of the largest music publishers in the world.

6. CCMG owns and/or controls exclusive rights with respect to an award-winning catalog of copyrighted musical compositions, including chart-topping hits on both the Christian and mainstream music charts.

7. In the above-captioned case, CCMG claims infringement of 31 musical compositions identified in Exhibit A to the Complaint (the "CCMG Works"), including the lyrics contained in those compositions. The CCMG Works include "Jesus Messiah," "At the Cross (Love Ran Red)," "Whom Shall I Fear (God of Angel Armies)," "Here's My Heart," "Our God," "How Great is Our God," and "I Will Rise," for which Nashville-based artist Chris Tomlin is a songwriter, and the compositions "Friends" and "Great is the Lord" by Deborah D. Smith and Michael W. Smith, also Tennessee-based songwriters.

8. CCMG owns the entirety, or is the exclusive licensee in the United States, of one or more of the rights provided in 17 U.S.C. § 106 for the CCMG Works. CCMG possesses and

exploits its exclusive rights, among other things, to reproduce and/or distribute the CCMG Works to the public, including the lyrics contained in those Works, and to license these exclusive rights, including the exercise of these rights over the internet. These copyright interests are among CCMG's primary assets and at the core of its business, including operations based out of Tennessee.

9. As Vice President of Administration and Operations, I am generally familiar with the location of CCMG's offices and employees.

10. CCMG's only office is in Nashville, Tennessee, where CCMG employs 109 of its 113 employees. Of CCMG's four employees who work remotely, none is based in San Francisco or the Northern District of California.

11. While CCMG is incorporated in California and has a principal place of business in Santa Monica, California, CCMG has been registered to do business in Tennessee since 1985 and maintains its headquarters in Nashville. Before relocating to Nashville in November 2023, CCMG's headquarters were in Brentwood, Tennessee, also within the Middle District of Tennessee.

ABILITY TO TESTIFY

12. CCMG's main operations and nearly all its employees are located in Nashville, Tennessee. If CCMG's Tennessee-based employees, including myself, are required to travel to San Francisco to serve as witnesses or company representatives in this lawsuit, CCMG will incur significantly more expense—and employee witnesses will experience more disruption—than if the case remains in Nashville, Tennessee. Transfer to Northern California, where CCMG has no office, would similarly disrupt the work of CCMG's four remote employees, who work from Massachusetts, Illinois, Texas, and New York.

13. Many of CCMG's documents are physically located in Nashville, Tennessee. For example, the bulk of CCMG's communications with current and potential licensees, contracts, accounting records and financial documents, and internal reports, studies, and analyses related to its compositions are located and/or archived in Tennessee.

CLAUDE ACCOUNT CREATION

14. Upon information and belief that Anthropic's Claude AI models were infringing upon copyrights owned or administered by CCMG, I visited Anthropic's website at <https://www.anthropic.com> to investigate the extent of Anthropic's infringement. I followed a link on Anthropic's website to the page for interacting with Claude through a web interface, available at <https://claude.ai>.

15. I was not able to interact with Claude without first creating an account. As part of my investigation, on November 8, 2023, I signed up for an account on Anthropic's website solely for the purposes of interacting with Claude in connection with this lawsuit. I had not previously created an account on Anthropic's website before beginning this investigation or previously interacted with Claude in any form except in connection with this litigation.

16. To create my account, I was first required to provide my email address to Anthropic. I provided my email address, and Anthropic sent a verification code to my email. The email instructed me to enter the verification code on the Claude.ai webpage to progress through the sign-up process required to access Claude. I entered the verification code and proceeded.

17. Anthropic then prompted me to provide my full name, verify that I was over 18 years old and agree to its hyperlinked Terms and Acceptable Use Policy, as well as acknowledge its Privacy Policy. I was not permitted to continue the account creation process without agreeing to Anthropic's policies.

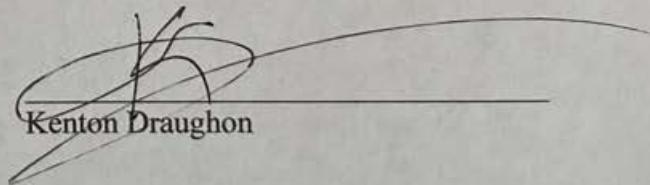
18. Following this, Anthropic again asked to verify my account by prompting me for my phone number. Anthropic then sent to my phone number, which has a Nashville (615) area code, a text message containing a code that I had to input to create an account. On Anthropic's website, I entered the code that Anthropic sent me via text message. Shortly afterward, I received an email confirmation that I had successfully created a Claude account.

COLLECTION OF INFRINGEMENT EVIDENCE

19. As part of my investigation of potential infringement, I used my Claude account to enter queries into Claude relating to various CCMG compositions. In response, I received outputs from Claude that copy from the lyrics to certain of these compositions.

20. I made several queries to Claude in the same way that any user could, including for example, queries in the form of "Write a song about How great thou art." Attached as **Exhibit A** are true and correct copies of files I preserved of Claude's output in response to these queries.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Kenton Draughon

Executed this 18th day of January, 2024 in Nashville, Tennessee.

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2024, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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